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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-28888-2020

Date of decision: 24.09.2020

LOVEPREET SINGH @ LABBI

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. G.S. Verma Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner, pending trial, in case FIR No.48 dated 10.05.2020 registered under Sections 376-D, 458, 323 of IPC at Police Station Sehna, District Barnala.

The aforesaid FIR was registered at the behest of the prosecutrix, an old lady of more than 65 years of age. The prosecutrix is mother of three daughters who are all married. She has one son, namely, Gurcharan Singh. Her brother-in-law also resides with them. On 08.05.2020 at about 11 PM, her husband and brother-in-law were lying in the courtyard whereas she was lying in the room and her son had gone to the work. On hearing the noise from outside, her brother-in-law opened the door, then the

accused-Labbi Singh along with Sukhdeep Singh and son of Jeeta Madhana entered into their house. The petitioner-Lovepreet Singh @ Labbi came in her room whereas the other two stood outside the room. The petitioner with intention to rape her, attacked her and when she raised alarm, the petitioner twisted her right leg and right arm and removed her *salwar* and committed rape upon her. The stitches of *kameez* of the complainant were also detached.

Counsel for the petitioner submits that the petitioner is in custody since 07.06.2020. The petitioner is about 25 years of age, whereas the prosecutrix is a married old lady of more than 65 years of age. The petitioner has been falsely implicated in the case. No medical was conducted on the prosecutrix so as to establish the allegation of rape. The whole story in the FIR is just to trap the petitioner because mother of the petitioner was signatory of the panchayati compromise vide which share of the property was divided between the prosecutrix and Nikka Dass. Commission of rape that too in the presence of her husband is difficult to be believed and, therefore, the whole story is improbable.

Learned State counsel does not dispute the custody. He states that challan in the case has been presented and there is no other case against the petitioner.

I have heard learned counsel for the parties.

Considering the fact that the petitioner is in custody and the victim is more than 65 years of age, who is a mother of three daughters (who are all married) and a son of about 32 years of age, the commission of rape by the petitioner, who is about 25 years of age, on the prosecutrix seems

quite improbable and in this manner, the culpability of the petitioner would be established during trial. Moreover, there is no medical evidence on record to prove the allegations levelled by the petitioner. Thus, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

24.09.2020
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No